

REMARKS/ARGUMENTS

This amendment responds to the final office action dated January 4, 2007.

The Examiner rejected claims 1-11, 13-15, 25-28, 50-53, 57 and 59-64 as being unpatentable over the combination of Graves, U.S. Patent Number 5,410,344, in view of Herz, U.S. Patent No. 6,020,883, and in further view of Finseth, U.S. Patent Number 6,754,906.

Independent claim 1, as amended, includes the limitations of (1) receiving user attribute information that includes user preferences"; (2) receiving program information corresponding to said at least one of said audio and video, where said program information comprises attributes each corresponding to a respective one of said user preferences, where said user preferences and said program information attributes each includes hierarchical levels including at least a first level and a second level where said second level includes attributes descriptive of one or more attributes in said first level at a finer level of detail, wherein at least one of said user preferences is at a first level and at least two of said user preferences is at a second level, wherein at least one of said program information attributes is at a first level and at least two of said program information attributes is at a second level;" and (3) "determining the desirability of said at least one of said audio and video based upon jointly processing preferences of at least said first level and said second level of said hierarchical levels of said program information attributes and processing preferences of at least said first level and said second level of said hierarchical levels of said user attribute information." None of the cited references disclose these limitations.

The Examiner contends that Herz discloses the limitation of user preferences and program attributes that includes hierarchical levels, as claimed. It does not, and in fact teaches away from that limitation:

A profile, either of a customer (Customer profile) or of a program (Content Profile), is composed of arrays of characteristics which define the customer profile vector CV_i and the program profile vector CP_j . To increase the accuracy in statistical estimation, the selection of *characteristics* should follow the following guidelines . . . [t]here should be no synonyms, *nor much overlapping in meaning between two or more characteristics. In other words, the correlations between the characteristics are desirably minimized.*

See Herz at col. 11 lines 28-41(emphasis added).

As noted by the Examiner, Herz does disclose that each customer may have a number of profiles, each valid for specified periods of the day. *See Id.* at col. 17 lines 26-64. Each profile may correspond to a mood, and the moods may be hierarchical in nature, i.e. a generic mood may encompass both a peaceful and violent mood. However, the moods, as described by Herz can not plausibly be considered “user preferences” as claimed because the program attributes of Herz do not each correspond to a respective one of the program attributes, as described by Herz. *Instead, the moods of Herz are simply alternate sets of user preferences.* Moreover, it would never make sense to jointly process respective mood levels with respective program attributes, because, in the system of Herz, the only one mood, with its respective user attributes, would be processed at a given time to rank available programs. In any event, Herz not only fails to teach program attributes ranked hierarchically, but teaches away from such a limitation as shown in the cited passage in the preceding paragraph.

Therefore, independent claim 1, as well as its dependent claims 2-9 patentably distinguish over the cited prior art.

Independent claims 10, 25, 50, and 57 as amended, as well as their respective dependent claims, are patentably distinguishable over the cited prior art as discussed with respect to independent claim 1.

In view of the foregoing amendments and remarks, the applicant respectfully requests reconsideration and allowance of claims 1-11, 13-15, 25-28, 50-53, 57 and 59-64.

Respectfully submitted,



Kurt Rohlf
Reg. No. 54,405
Tel: (503) 227-5631